

REMARKS

Claims 12, 14-22 and 26-29 are pending and claims 12 and 16 are independent. Claims 13 and 23-25 have been cancelled. Claims 12, 16 and 21 have been amended. New claim 29 has been added, which is supported by at least pages 20 and 28 of the present specification. No new matter has been added.

In view of the following remarks, the Examiner is respectfully requested to withdraw all rejections and allow the currently pending claims.

Issue under 35 U.S.C §112, first (enablement) and second (indefiniteness) paragraphs

Claims 12-24 and 26-28 stand rejected under 35 U.S.C. §112, first paragraph as failing to comply with the enablement requirement. Also, claims 12-24 and 26-28 stand rejected under 35 U.S.C. §112, second paragraph due to a certain indefiniteness. Each of these rejections is respectfully traversed.

In order to address the enablement/indefiniteness rejections, the term "preventing" is removed from claims 12 and 16. By way of the present submission, these rejections are moot and reconsideration and withdrawal thereof are respectfully requested.

Issues under 35 U.S.C. §§102(b)/103(a) (anticipation/obviousness)

Claims 12-26 stand rejected under 35 U.S.C. §102(b) as anticipated by Garti et al. (USP 5,847,109). Also, claims 12-25 and 27 stand rejected under 35 U.S.C. §102(a) as anticipated by Mehansho et al. (USP 6,706,295). Further, claims 12-25 and 28 stand rejected under 35 U.S.C. §103(a) over Garti in view of Mehansho. Each of these rejections is respectfully traversed.

While not conceding to the Examiner's rejections, and in an effort to advance prosecution only, claim 12 has been amended to define the bowel disease as an "inflammatory" bowel disease.

i) The Present Invention

Claim 12 of the present invention is directed to a method for ameliorating or treating a inflammatory bowel disease, comprising administering a composition comprising galactomannan and/or arabinogalactan to a patient suffering from said bowel disease.

Also, claim 16 of the present invention is directed to a method for ameliorating or treating irritable bowel syndrome, comprising administering a composition comprising galactomannan to a patient suffering from said irritable bowel syndrome.

ii) Distinctions Between Claim 12 of the Present Invention and the Cited Art

The compositions of Garti (col. 3, lines 17-19) and Mehansho (col. 2, lines 13-15), respectively are suggested for use in preventing constipation. In contrast, the present composition recited in claim 12 is used for ameliorating or treating an inflammatory bowel disease, which disease does not accompany "constipation". Therefore, claim 12 and its dependent claims 14, 15, 17-19, 21, 22 and 26-28 of the present invention are patentably distinct from the cited references.

iii) Distinctions Between claim 16 and the Cited Art

Mehansho discloses arabinogalactan for preventing constipation. However, arabinogalactan of Mehansho for preventing constipation is different from galactomannan of the present invention for ameliorating or treating irritable bowel syndrome. Therefore, claim 16 and its dependent claims 20 and 29 of the present invention are patentably distinct from Mehansho.

Garti generally discloses at col. 3, lines 17-19 that galactomannan is "effective in preventing constipation". However, constipation symptoms in constipation type irritable bowel syndrome (IBS) are persistent while accompanying an abdominal pain (see, e.g., pages 20 and Table 14 at page 48 of the present specification). Such symptoms of IBS are very difficult to treat and thus, are quite different from general constipation of Garti. Further, Garti fails to disclose or suggest ameliorating or treating constipation type IBS. Rather, Garti merely refers to "preventing constipation". Therefore, claim 16 and its dependent claims 20 and 29 of the present invention are patentably distinct from Garti.

As the MPEP directs, all the claim limitations must be taught or suggested by the prior art to establish a *prima facie* case of anticipation or obviousness. See MPEP §§ 2131 and 2143.03. In view of the fact that the cited references fail to teach or fairly suggest the claimed features, a *prima facie* case of anticipation or obviousness cannot be said to exist.

As the reasons discussed above, Applicants respectfully submit that the presently pending claims are neither anticipated by nor rendered obvious over the cited references. The Examiner is therefore requested to withdraw all rejections and allow the currently pending claims.

CONCLUSION


In view of the above remarks, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Craig A. McRobbie Reg. No. 42,874 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§1.16 or 1.17; particularly, extension of time fees.

Dated: September 9, 2009

Respectfully submitted,

By  #42,874
Craig A. McRobbie
Registration No.: 42,874
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant